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DE RUEHC #7440 2051433
ZNR UUUUU ZZH
P R 241417Z JUL 09
FM SECSTATE WASHDC
TO RUEHZP/AMEMBASSY PANAMA PRIORITY 0000
INFO RHMFISS/JOINT STAFF WASHINGTON DC
RUEKJCS/SECDEF WASHINGTON DC
RHMFISS/CDR USSOUTHCOM MIAMI FL

UNCLAS STATE 077440

SIPDIS

E.O. 12958: N/A

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SUBJECT: AGREEMENT WITH PANAMA ON STATUS OF FORCES FOR
FUERZAS ALIADAS PANAMAX, FROM AUGUST TO SEPTEMBER 27, 2009

REF: STATE 049307

¶1. THIS IS AN ACTION REQUEST. SEE PARAGRAPH 2, 5 AND 6.

¶2. DOD HAS ASKED THE DEPARTMENT TO SECURE STATUS PROTECTIONS FOR U.S. MILITARY PERSONNEL WHO WILL BE PRESENT IN PANAMA FROM AUGUST 31 TO SEPTEMBER 27, 2009, IN CONJUNCTION WITH A TRAINING EXERCISE, FUERZAS ALIADAS PANAMAX. POST IS REQUESTED TO IMMEDIATELY PROPOSE TO THE GOVERNMENT OF PANAMA AN EXCHANGE OF DIPLOMATIC NOTES FOR THIS PURPOSE, USING THE TEXT AT PARAGRAPH 3. TO AVOID THE EXCHANGE OF MULTIPLE NOTES, POST SHOULD PRESENT THE BELOW NOTE IN A DRAFT FORMAT AND SEND A FINAL NOTE ONLY AFTER REACHING AGREEMENT ON THE TEXT. (COMMENT: WITH THE EXCEPTION OF THE ACTIVITY, THE TEXT IS SUBSTANTIALLY SIMILAR TO THAT IN REFTEL.)

¶3. BEGIN TEXT OF DRAFT NOTE: (COMPLIMENTARY OPENING) AND HAS THE HONOR TO REFER TO RECENT DISCUSSIONS BETWEEN REPRESENTATIVES OF THE TWO GOVERNMENTS REGARDING THE STATUS OF UNITED STATES PERSONNEL, AS DEFINED IN THE EMBASSY,S NOTE NO. 834, DATED JULY 3, 2001, AND THE MINISTRY,S NOTE DM NO. 0301/2001, DATED JULY 10, 2001, WHO MAY BE TEMPORARILY PRESENT IN PANAMA IN CONNECTION WITH A TRAINING EXERCISE, FUERZAS ALIADAS PANAMAX, FROM AUGUST 31 TO SEPTEMBER 27, ¶2009. UNITED STATES PERSONNEL PARTICIPATING IN THIS EXERCISE WILL TOTAL APPROXIMATELY MORE THAN 500, WHO WILL BE IN UNIFORM AND WILL CARRY WEAPONS AS AUTHORIZED. THE PURPOSE OF THE VISIT IS TO CONDUCT MISSION ESSENTIAL TASK LIST TRAINING WITH PANAMANIAN FORCES. THE PANAMANIAN COUNTERPART IS JOSE RAUL MORENO, MINISTRY OF GOVERNMENT AND JUSTICE.

THE TRAINING WILL TAKE PLACE IN PANAMA CITY, PANAMA, AND THE SURROUNDING CONTIGUOUS WATERS OF PANAMA CITY, PANAMA.

AS A RESULT OF THESE DISCUSSIONS, THE EMBASSY PROPOSES THAT SUCH PERSONNEL SHALL BE ACCORDED A STATUS EQUIVALENT TO THAT ACCORDED TO THE ADMINISTRATIVE AND TECHNICAL STAFF OF THE EMBASSY OF THE UNITED STATES OF AMERICA UNDER THE VIENNA CONVENTION ON DIPLOMATIC RELATIONS OF APRIL 18, 1961 (VIENNA CONVENTION). THE UNDERSTANDINGS CONTAINED IN THE EMBASSY,S NOTE NO. 835 DATED JULY 3, 2001, AND THE MINISTRY,S REPLY IN NOTE NO. D.M. 0300/2001 DATED JULY 10, 2001, SHALL APPLY.

UNITED STATES PERSONNEL SHALL BE PERMITTED TO ENTER AND EXIT PANAMA WITH UNITED STATES IDENTIFICATION AND WITH COLLECTIVE MOVEMENT OR INDIVIDUAL TRAVEL ORDERS, IN ACCORDANCE WITH AN AGREEMENT ON NON-IMMIGRANT VISAS BETWEEN THE UNITED STATES AND PANAMA, WHICH HAS BEEN IN FORCE SINCE JUNE 1, 1956, AS AMENDED, EXCEPT THAT THE GOVERNMENT OF PANAMA SHALL WAIVE THE REQUIREMENT FOR TOURIST CARDS AND RELATED FEES. PANAMANIAN AUTHORITIES SHALL ACCEPT AS VALID DRIVING LICENSES OR PERMITS ISSUED BY THE APPROPRIATE U.S. AUTHORITIES TO UNITED STATES PERSONNEL FOR OPERATION OF VEHICLES; AND SUCH PERSONNEL SHALL BE AUTHORIZED TO WEAR U.S. GOVERNMENT ATTIRE (UNIFORMS) AND TO CARRY AUTHORIZED EQUIPMENT WHEN REQUIRED FOR THEIR MISSION WHILE PERFORMING OFFICIAL DUTIES.

THE EMBASSY OF THE UNITED STATES FURTHER PROPOSES THAT THE GOVERNMENT OF PANAMA ACCORD DUTY-FREE IMPORTATION AND EXPORTATION, AS WELL AS EXEMPTION FROM INSPECTION AND TAXATION OF PRODUCTS, PROPERTY, MATERIEL, AND EQUIPMENT IMPORTED INTO, ACQUIRED IN, OR EXPORTED FROM PANAMA BY OR ON BEHALF OF THE U.S. GOVERNMENT OR ITS PERSONNEL IN CONNECTION WITH THEIR MISSION IN PANAMA, EXCEPT THAT UNITED STATES PERSONNEL SHALL NOT BE EXEMPT FROM PANAMANIAN TAXES ON ITEMS PURCHASED IN PANAMA FOR THEIR PERSONAL USE.

THE TWO GOVERNMENTS SHALL COOPERATE IN TAKING THE NECESSARY STEPS TO ENSURE THE SECURITY OF UNITED STATES PERSONNEL AND PROPERTY IN PANAMA.

VESSELS AND AIRCRAFT OWNED OR OPERATED BY OR FOR UNITED STATES ARMED FORCES SHALL NOT BE SUBJECT TO PAYMENT OF LANDING OR PORT FEES, PILOTAGE CHARGES, NAVIGATION, OVERFLIGHT OR PARKING CHARGES OR LIGHTERAGE OR HARBOR DUES WHILE IN PANAMA, EXCEPT FOR THE CHARGES RELATED TO THE NORMAL TRANSIT OF THE PANAMA CANAL, PREVIOUSLY AGREED TO; THE UNITED STATES ARMED FORCES SHALL PAY REASONABLE CHARGES FOR SERVICES REQUESTED AND RECEIVED.

IT SHALL BE THE RESPONSIBILITY OF UNITED STATES PERSONNEL TO RESPECT THE LAWS OF PANAMA AND TO ABSTAIN FROM ANY ACTIVITY INCONSISTENT WITH THE SPIRIT OF THEIR MISSION. AUTHORITIES OF THE GOVERNMENT OF THE UNITED STATES OF AMERICA SHALL TAKE THE NECESSARY STEPS TO THAT END.

APPROPRIATE PANAMANIAN AND U.S. MILITARY OR CIVILIAN POLICE AUTHORITIES SHALL COOPERATE IN THE INVESTIGATION OF ANY CRIME BELIEVED TO HAVE BEEN COMMITTED BY OR AGAINST UNITED STATES PERSONNEL.

THE GOVERNMENT OF PANAMA SHALL ACCEPT FULL RESPONSIBILITY FOR, AND SHALL HOLD THE UNITED STATES GOVERNMENT HARMLESS FROM, ANY AND ALL CLAIMS ARISING FROM THE USE OF PROJECTS CONSTRUCTED, OR IN THE PROCESS OF BEING CONSTRUCTED IN WHOLE OR IN PART, BY UNITED STATES PERSONNEL IN CONNECTION WITH THEIR MISSION IN PANAMA.

FINALLY, BOTH GOVERNMENTS SHALL WAIVE ANY AND ALL CLAIMS (OTHER THAN CONTRACTUAL CLAIMS) AGAINST EACH OTHER FOR PERSONAL INJURY TO OR DEATH OF THEIR MILITARY OR CIVILIAN PERSONNEL, OR FOR DAMAGE, LOSS, OR DESTRUCTION OF THE OTHER'S PROPERTY ARISING OUT OF ACTIVITIES COVERED BY THIS AGREEMENT. THE UNITED STATES SHALL PAY, IN ACCORDANCE WITH UNITED STATES LAW, FAIR AND REASONABLE COMPENSATION IN SETTLEMENT OF MERITORIOUS CLAIMS BY THIRD PARTIES ARISING OUT OF ACTS OR OMISSIONS OF UNITED STATES PERSONNEL, OR WHICH ARE OTHERWISE INCIDENT TO AGREED ACTIVITIES BY UNITED STATES PERSONNEL IN CONNECTION WITH THEIR MISSION IN PANAMA.

ADDITIONAL ARRANGEMENTS AS MAY BE NECESSARY MAY BE ENTERED INTO BY THE APPROPRIATE AUTHORITIES OF THE TWO GOVERNMENTS.

THE EMBASSY OF THE UNITED STATES OF AMERICA PROPOSES THAT THIS NOTE AND THE MINISTRY'S REPLY THERETO SHALL CONSTITUTE AN AGREEMENT BETWEEN THE TWO GOVERNMENTS ON THIS SUBJECT AND THAT ITS PROVISIONS SHALL ENTER INTO FORCE AS OF THE DATE OF THE MINISTRY'S REPLY. (COMPLIMENTARY CLOSING.) END TEXT.

14. (U) THE SUGGESTED REPLY OF THE GOVERNMENT OF PANAMA SHOULD READ AS FOLLOWS: BEGIN TEXT: (COMPLIMENTARY OPENING) AND REFERS TO THE EMBASSY'S NOTE (NUMBER AND DATE) WHICH READS AS FOLLOWS:

(QUOTE U.S. NOTE IN ITS ENTIRETY).

THE MINISTRY OF FOREIGN RELATIONS HAS THE FURTHER HONOR TO INFORM THE EMBASSY OF THE UNITED STATES OF AMERICA THAT THE PROPOSALS SET FORTH IN THE EMBASSY'S NOTE ARE ACCEPTABLE TO THE GOVERNMENT OF PANAMA AND TO CONFIRM THAT THE EMBASSY'S NOTE AND THIS NOTE SHALL CONSTITUTE AN AGREEMENT BETWEEN THE TWO GOVERNMENTS, WHICH SHALL ENTER INTO FORCE ON THIS DATE. END TEXT.

15. (U) ANY HOST COUNTRY PROPOSAL FOR CHANGES TO THE U.S.

TEXT SHOULD BE REFERRED TO THE DEPARTMENT. STATE POCS ARE MARSHA SINGER, WHA/CEN, 202-647-3505, OR CDR MARC GUARIN, L/PM, 202-647-7563. THE DEPARTMENT OF DEFENSE POCS ARE VANESSA MITCHELL, 703-697-3190, AND WALTER EARLE, OSD/WHA, 703-697-3327.

¶6. (U) UPON CONCLUSION OF THE EXCHANGE OF NOTES, EMBASSY SHOULD REPORT THE AGREEMENT BY CABLE, AND SEND THE ORIGINAL HOST COUNTRY NOTE WITH A CERTIFIED COPY OF THE U.S. NOTE TO THE DEPARTMENT, L/T, ROOM 5420 (ATTN: DAPHNE COOK).
CLINTON